

REMARKS

The Applicant appreciates the courtesy extended by the Office during the face-to-face interview and subsequent telephone interviews.

The Applicant also appreciates the Office's allowance of Claims 70 and 83 and the Office's acknowledgement of allowable subject matter in Claims 49, 52, 59, 60 and 66.

Claims 63-65 and 82 have been canceled.

Claim 66 has been amended into independent form.

Claims Rejections

The Applicant submits the finality of the rejection is improper on its face and must be withdrawn.

I. The Office has improperly rejected Claims 71 and 73 as being anticipated by Swift. This rejection must be withdrawn.

Claims 71 and 73 depend properly from Claims 67 and 68 respectively. The Office has acknowledged that Swift does not anticipate Claims 67 and 68, *i.e.*,

"Swift does not disclose the lamp being located at the periphery of the cavity." Pg. 10, OA 12/28/05 and Pg. 11, OA 12/28/05

The Office having acknowledged that independent Claims 67 and 68 are not anticipated by Swift cannot then reject claims depending therefrom as being anticipated by Swift. Therefore, the rejection is *prima facie* improper and must be withdrawn.

II. The Office has improperly rejected Claim 69 as being anticipated by Swift.

This rejection must be withdrawn.

Claims 69 recites *inter alia*:

“a carrier plate carried by said support structure and defining a generally smooth and uninterrupted light emitting surface of said cavity”; and,

“said carrier plate forms the outermost element of the light output device through which the light is output for illuminating a space”

The Office action incorrectly relies on the lens 79 in Figure 8 as disclosing the claimed carrier plate.

Swift states:

“Each of these lenses have a plurality of adjoining apertures 66a, 66b, and 66c through which light is emitted. The plurality of apertures together form a light permeable grid that is substantially equal to or larger than the open light enclosure box bottom. The size and shape of the apertures effects both the intensity and the glare characteristics of the light emitted” Col. 7, ll. 10-15;

“In addition to the size and shape of the apertures, the lens affects the characteristics of the light emitted from the light fixture and the shape and finish of the lens walls 68a, 68b, and 68c, which also form the portion of the lens connecting the apertures.” Col. 7, ll. 21-25; and,

“As shown in FIG. 8, one way to use the translucent screen 78 is to simply lay it on top of the lens 79 within the light enclosure box 80.” Col. 8, ll. 65-68.

Clearly from the description of the lenses in Swift and from the accompanying

figures, the lens 79 is not smooth and uninterrupted as the lenses of Swift comprise a plurality of apertures. The existence of apertures in the lens 79 has been acknowledged by the Office. (*Cited* Pages 15 and 17 of Office Action 12/28/2005). The reliance in the Office's response to arguments on the bottom line in Figure 8 as disclosing a smooth and uninterrupted is misplaced. Figure 8 is a cut away side view of the lens 79. The areas cut away are clearly distinguished by the cross hatching as in translucent plate 78. The bottom line is merely the edge of the aperture. Referencing Figures 2 and 4 clearly demonstrates the apertures extend through the bottom (see lens 38).

Therefore, since the lens 79 is not smooth and uninterrupted it does not meet the claim limitations of the carrier plate. The rejection is improper and must be withdrawn. Likewise the rejection of Claim 81 which depends from Claim 69 is also improper and must be withdrawn.

III. Claims 41-45, 47-48, 50-51, 54-58, 61-62 and 75 have been amended rendering the previous anticipation rejections, over Swift, moot.

Independent Claims 41 and 56 have been amended so that the support structure includes "a smooth and uninterrupted light permeable plate". Swift does not disclose a smooth and uninterrupted light permeable plate. This light permeable plate is in addition

to the light permeable component.

As noted previously, the lens 79 has a plurality of apertures extending through the lens and thus is not smooth and uninterrupted. Therefore, independent Claims 41 and 56 are allowable over not only the cited art of Swift, but also over Zou and Schwartz since neither discloses such a support structure. The rejection of Claims 41 and 56 must be withdrawn.

Additionally, Claims 41 and 56 have been amended to include "said boundary surface being provided with a non-planar light-refractive structure". The translucent sheet 78 of Swift is clearly planar and thus can not meet the claim limitations of Claims 41 and 56. The rejections of Claims 41 and 56 must also be withdrawn for at least this reason. Likewise the rejections of Claims 42-45, 47, 48, 50-51, 54, 55, 57, 58, 61-62 and 75 also must be withdrawn as they properly depend from Claims 41 and 56.

IV. The base claims of dependent Claims 46, 53, 78 and 80 have been amended as noted previously and as a result the obviousness rejections based on Zou and Swift are rendered moot. As discussed above, Swift does not disclose a smooth and uninterrupted light permeable plate. Zou also does not disclose such a smooth and uninterrupted light permeable plate. Therefore, the combination of Swift and Zou cannot negate the allowability of these claims. The rejection must be withdrawn.

V. The Office incorrectly rejected Claims 67, 68, 72, 74, 76-78 and 79 as

being obvious over Swift in view of Zou.

Claims 67, 68, 72, 74, 76- 78 and 79 include the limitation of “said lamp[s] being located outside of said cavity or at the lateral periphery thereof.” The Office acknowledges the Swift does not disclose this limitation and relies on Zou to disclose this limitation. However, the motivation used by the Office is improper.

The Office incorrectly states “It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Zou et al. in the apparatus of Swift et al. to concentrate light to a desired area, making better use of electrical and light energy” and cites Column 2, lines 25-35.

However, the cited passage clearly is describing a patent issued to Whitehead and is not directed to Zou. Furthermore, the passage does nothing to teach the use of lamps and the lateral periphery of a cavity contributing to concentrating light to a desired area.

Zou recites:

“A luminary having two generally orthogonally arranged corrugated sheets is disclosed in U.S. Pat. No. 4,452,449 (the ‘499 patent) to Whitehead... This reference further discloses the desirability of concentrating the light output from the luminair over the angular view range between 0° and 30° from normal.”

Nor has the Office presented a teaching for locating lamps at the lateral periphery to concentrate light to a desired area. The Office’s contention that locating the lamps at the lateral periphery makes better use of electrical and light energy is also not supported in Zou and the Office has presented no facts or teachings that would lead to the Office’s

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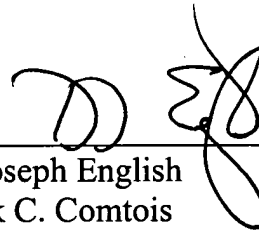
conclusion. Therefore, without a proper motivation to combine, a *prima facie* case of obviousness cannot be established. The rejections are improper and must be withdrawn.

The Applicant has amended the claims to obviate the Offices objections.

Applicant submits that the Final rejection is improper and must be withdrawn. The Applicant also submits that the application, including Claims 41-62, 66-81 and 83, is in condition for allowance. Early notification to that effect is respectfully requested.

The Assistant Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679**.

Respectfully submitted,



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